

IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ISAIAH GUNARTT,

Plaintiff,

v.

Case No. 3:10-cv-00767

ILLINOIS DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

ORDER

This matter comes before the Court on Magistrate Judge Philip M. Frazier's Report and Recommendation ("R & R") (Doc. 56) of December 5, 2011, wherein it is recommended that Defendant Houer's affirmative defense of failure to exhaust administrative remedies be denied. No party objected to the R & R. After reviewing a magistrate judge's report and recommendation, the Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in the report. Fed. R. Civ. P. 72(b). The Court has discretion to conduct a new hearing and may consider the record before the magistrate judge anew or receive any further evidence deemed necessary. *Id.*

The Court must review *de novo* the portions of the report to which specific written objections are made. *Id.* "If no objection or only partial objection is made, the district court Judge reviews those unobjectionated portions for clear error." *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). Accordingly, because no party objected, the Court will be reviewing Judge Frazier's R & R for clear error, instead of applying a *de novo* standard of review. After reviewing the Report and Recommendation prepared by Judge Frazier, the Court finds there is no clear error.

Accordingly, the Court hereby **ADOPTS** the R & R (Doc. 56) **in its entirety**, whereby the Court **DENIES** Defendant Houer's affirmative defense of failure to exhaust administrative remedies.

IT IS SO ORDERED.

DATED: January 9, 2012

s./ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE